

Declaration of Danny Waxwing  
Exhibit A

## SETTLEMENT AGREEMENT

### I. INTRODUCTION

- A.** On October 13, 2023, Disability Rights Washington (DRW) (Plaintiff) and the Washington Department of Corrections (the Department) (Defendants) (collectively the Parties) filed a Stipulated Joint Motion in the United States District Court, Western District of Washington (Dkt. No. 2). The Parties moved the Court to approve the Settlement Agreement (Dkt. No. 3-1) reached by the parties and issue a consent decree incorporating the Settlement Agreement in the Order. The purpose of this Settlement Agreement was to resolve matters identified in the Complaint (Dkt. No. 1) filed by DRW in the Court, on behalf of DRW's constituents who are individuals with disabilities who identify as transgender, intersex, non-binary, and gender non-conforming (transgender) and are incarcerated in prisons operated and administered by the Department.
- B.** On October 17, 2023, the Court granted the Parties' Stipulated Joint Motion and entered an Order (Dkt. No. 9) adopting the terms of the Agreement. The Settlement Agreement allowed thirty-six (36) months for the Department to achieve Substantial Compliance with the terms of the Settlement Agreement, during which time, DRW monitored the Department's efforts.
- C.** On February 6, 2026, the Parties reached an Agreement in Principle to extend the duration of the Settlement Agreement and undertake good faith negotiations concerning select substantive terms of the Settlement Agreement.
- D.** This Amended Agreement (Agreement) has been reached by DRW and the Washington Department of Corrections with Tim Lang in his official capacity as the Secretary of the Washington Department of Corrections. The purpose of this Agreement is to formalize the Parties' renegotiation of the original Settlement Agreement and to support the Department's efforts to achieve Substantial Compliance with the revised terms set forth herein.
- E.** The Parties agree that resolving this matter with this Agreement is in the best interests of the Department, DRW, and its constituents. The Parties further stipulate and agree that this Agreement complies in all respects

with the requirements for prospective relief under the Prison Litigation Reform Act, 18 U.S.C. § 3626.

- F.** This Agreement shall be filed in the United States District Court, Western District of Washington. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343. Venue is proper in this district pursuant to 28 U.S.C. § 1391. The terms of this Agreement shall not take effect unless and until the Court issues an Order adopting the Agreement. This case will remain on the Court’s inactive docket during the term of this Agreement. The Parties may request status conferences to assist in informally resolving disputes, if needed. The Court will retain jurisdiction only to enforce the terms of this Agreement and to resolve disputes between the Parties. The Parties agree to jointly recommend to the Court that it approve the terms of the Agreement.
- G.** The Agreement shall be effective and binding on the date on which the Court issues an order adopting the terms of this Agreement (the “Effective Date”). If the Court declines to issue an order adopting the terms of the Agreement, then the Agreement shall terminate and become null and void, and the Parties will revert to the terms of the October 17, 2023 Settlement Agreement. If an Appellate Court reverses an order adopting the Agreement, then, provided that no appeal is pending from such a ruling, this Agreement shall terminate and become null and void on the 31st day after issuance of the order referenced in this section, and the Parties will revert to the terms of the October 17, 2023 Settlement Agreement. If an appeal is pending of an order declining to adopt the Agreement, this Agreement shall not be terminated until final resolution of any such appeal, except by written agreement of the Parties.
- H.** This Agreement is binding upon DRW, the Department, and the state of Washington, by and through their officials, agents, employees, assigns, and successors. This Agreement is enforceable only by the Parties. The Parties agree to take all steps and efforts contemplated by the Agreement. This Agreement embodies a compromise and settlement of disputed claims, and nothing herein shall be deemed to constitute an admission of any wrongdoing by or liability on the part of the Defendants. Plaintiffs further understand and agree that by entering into this Agreement, they are stipulating to the dismissal of all claims asserted in their Complaint with prejudice upon completion of the terms of settlement as provided herein. Upon such dismissal, Plaintiffs agree

and covenant not to sue the State of Washington or its agencies, employees and officials over the claims concluded by this Agreement.

- I. Nothing in this Agreement will affect the rights of DRW regarding any legal claim arising after the Effective Date or regarding claims other than those asserted in the complaint by DRW. DRW brings this action on behalf of itself as Plaintiff and nothing in this Agreement affects the rights or claims of any DRW constituent or client, including constituent-exemplars referenced in the complaint.

## II. DEFINITIONS

- A. **Agreement** means this Amended Settlement Agreement to settle claims between named Plaintiff and named Defendants.
- B. **Day(s)** means business day(s) unless otherwise specified.
- C. **Defendants** means the Washington State Department of Corrections and Tim Lang in his official capacity as Secretary of the Washington State Department of Corrections.
- D. **Department** means the Washington State Department of Corrections.
- E. **Disability** means the presence of a sensory, mental, or physical impairment that: (i) Is medically cognizable or diagnosable; or (ii) Exists as a record or history; or (iii) Is perceived to exist whether or not it exists in fact. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity.
- F. **DRW** means Plaintiff Disability Rights Washington.
- G. **Effective Date** means the date on which the Court issues its order adopting the terms of this Agreement.
- H. **Exigent Circumstances** means any set of temporary and unforeseen circumstances that require immediate action in order to resolve a threat to the security or institutional order of a Department facility.
- I. **Gender** means the socially constructed roles, behaviors, expressions and identities of girls, women, boys, men, and gender diverse people. Gender identity is not binary (i.e., either man or woman) nor static; it

exists along a continuum and can change over time. Gender includes a person's gender identity and gender expression.

- J. Gender Dysphoria** means Gender Dysphoria under the *Diagnostic and Statistical Manual for Mental Disorders*, Gender Incongruence under the *International Classification of Diseases*, or other diagnoses associated with transgender status including any Gender Identity Disorder (such as dual-role transvestism or transsexualism) or Unspecified Endocrine Disorder.
- K. HCA Transhealth Program** means the Washington State Health Care Authority Apple Health Transhealth Program, including any implementing WACs or provider services billing guides.
- L. Health Status Report (HSR)** means the Department document that notes a person's medical, visual, mental health, and/or dental accommodations.
- M. Implement** means a policy has been drafted and disseminated to all staff responsible for following or applying the policy; all relevant staff have been trained on the policy; compliance with the policy is monitored and tracked through compliance tools including quality assurance measurements as appropriate; the policy is consistently applied and followed as demonstrated by the compliance tools and interviews with staff and people in custody; and the Department takes documented corrective action measures to address lapses in application of the policy.
- N. Include, Includes, or Including** means "include, but not be limited to," "includes, but shall not be limited to," and "including, but not limited to."
- O. Material Compliance** requires that, for each provision, the Department has developed and implemented a policy incorporating each requirement of the provision, trained relevant personnel on the policy, and relevant personnel are complying with each provision requirement in actual practice. Episodic or isolated instances shall not prevent a finding that Defendants are in Material Compliance with a provision, provided that Defendants demonstrate that they have instituted policies, training, and practices that are reasonably calculated to materially comply with the provision and that quality assurance data or other information demonstrate that the changes have been carried out in actual practice.

- P. Medically Necessary and/or Medical Necessity** is defined according to the Washington State Health Care Transhealth Program, WAC 182-500-0070, and applicable Washington State law.
- Q. Monitoring Term** means the period of thirty (30) months commencing on the date the Parties certify to the Court that mutually agreed-upon Workplans have been finalized and approved. The obligations of the Parties during the Monitoring Term are as set forth herein.
- R. Parties** means the Plaintiff and Defendants.
- S. Plaintiff** means Disability Rights Washington.
- T. Restrictive Housing** means a housing assignment for individuals whose presence in general population is deemed to present a danger to self, others, or facility security. Restrictive housing uses enhanced security buildings with single-occupancy cells to separate those individuals from the general population. Restrictive housing includes stand-alone Administrative Segregation units (Ad-Seg); Intensive Management Units (IMU); Close Observation Areas (COA); Unit A and Unit B in the Sky River Treatment Center at Monroe Correctional Complex (SRTC A and B Tier); and Treatment & Evaluation Center Acute Unit at the Washington Corrections Center for Women (TEC Acute).
- U. Staff** means Department staff, contractors, volunteers, and agents.
- V. Substantial Compliance** means that the Department has achieved Material Compliance with each Agreement provision and has maintained Material Compliance with each Agreement provision for two (2) consecutive reporting periods over the course of the Monitoring Term. Substantial Compliance shall govern all provisions and requirements for the Agreement.
- W. Transgender** describes people whose gender identity is different from their sex assigned at birth. For the purposes of this Agreement, transgender is an umbrella term that refers to transgender, intersex, non-binary, and gender non-conforming people unless explicitly stated otherwise (e.g., “transgender women”).

### **III. SUBSTANTIVE TERMS**

#### **A. Policies and Procedures**

1. The Department shall develop, submit to DRW for review consistent with this Agreement, and implement written policies that enact the terms of this Agreement. The Department shall continue to work with DRW as necessary to draft and implement policies and procedures or revise existing policies and procedures pursuant to this Agreement.
2. The Department will not amend any currently existing policies or their attachments, protocols, guidelines, Department forms, operational memoranda, or other internally published documents related to the implementation of this Agreement without first submitting the proposed changes to DRW for review. The Department will not implement any proposed changes relating directly to this Agreement without first obtaining mutual agreement in writing with DRW.
3. The Department shall revise and/or develop and implement, as necessary, any other policies or documents necessary to enact the terms of this Agreement. The Department will develop a Statewide Toolkit for Transgender People in Custody and an Employee Manual, with the effect of policy, that explains how people in custody may exercise their rights under this Agreement.
4. The Department will train all staff, as necessary, to implement the requirements of this Agreement. The Department will train all staff on new or revised policies, guidance, or procedures established to meet the requirements of this Agreement. Training shall be specific to the role and job duty as necessary to implement this Agreement.

**B. Staffing**

4. The Department will ensure that staffing is sufficient to meet the requirements of this Agreement.
5. The Department will designate at least one (1) Gender-Affirming Mental Health Specialist at each major prison.
  - a. The Department will ensure that each major prison is staffed sufficiently and processes are implemented such that transgender individuals assigned to the caseload of a Gender-Affirming Mental Health Specialist retain

uninterrupted access to a Gender-Affirming Mental Health Specialist and are scheduled for appointments at the frequency and duration specified in the patient's individualized mental health treatment plan.

- b. The Department will ensure that each major prison is staffed sufficiently and processes are implemented such that transgender individuals who are requesting to initiate care with a Gender-Affirming Mental Health Specialists are seen within twenty-eight (28) days of receipt of the request.
  - c. Each Gender-Affirming Mental Health Specialist will be required to participate in a monthly case consultation meeting facilitated by a Gender-Affirming Mental Health Community Consultant and dedicated to the training of Gender-Affirming Mental Health Specialists.
6. The Department will continue to maintain a contract with a Gender-Affirming Mental Health Community Consultant. The Department may not designate any Gender-Affirming Mental Health Community Consultant without hiring or contracting with a provider from a pool of candidates jointly agreed upon by the Department and DRW. The Gender-Affirming Mental Health Community Consultant must be a community expert in providing gender-affirming mental health care.
  7. The Department will utilize the services of a Gender-Affirming Medical Community Consultant when needed according to this Agreement. A Gender-Affirming Medical Community Consultant is a community expert in gender-affirming medical care. The Gender-Affirming Medical Community Consultant may be a provider through TransLine, a transgender healthcare specialist on Rubicon, or a community expert in transgender healthcare that has been mutually agreed upon by the Department and DRW.
  8. The Department will staff at least one (1) Gender-Affirming Medical Specialist.
    - a. The Department will ensure that staffing is sufficient and processes are implemented to ensure that transgender individuals have access to the services of a Gender-

Affirming Medical Specialist according to DOC Guidelines M1102.

- b. The Department may not designate any Gender-Affirming Medical Specialist position without hiring or contracting with a provider from a pool of candidates jointly agreed upon by the Department and DRW. The Gender-Affirming Medical Specialist will be WPATH Certified or will obtain WPATH certification within three (3) years of the date of designation, unless otherwise agreed by the Parties.
  - c. The Department will designate a Back-Up Gender-Affirming Medical Specialist who will fulfill the responsibilities of the Gender-Affirming Medical Specialist during periods of unavailability lasting longer than ten (10) days. Any Back-Up Gender-Affirming Medical Specialist will be WPATH Certified within three (3) years of the date of designation. Prior to WPATH certification, a Back-Up Gender-Affirming Medical Specialist will not change or develop a course of treatment without documenting a consultation with a Gender-Affirming Medical Community Consultant. After a Back-Up Gender-Affirming Medical Specialist provides any gender-affirming clinical care to a transgender patient, the Back-Up Gender-Affirming Medical Specialist will notify the Gender-Affirming Medical Specialist via the established process.
9. The Department will staff at least one Patient Care Navigator at every major prison facility. Patient Care Navigators will provide assistance with healthcare navigation and case management to transgender individuals as described in DOC Guidelines M1102 and M1103. Facilities will designate Patient Care Navigator(s) to provide back-up services when a Patient Care Navigator position is vacant for more than ten (10) days.
  10. The Department will staff at least one Gender-Affirming Program Administrator (GAPA). The GAPA provides operational oversight for gender-affirming care.

11. The Department will staff at least one full-time Gender-Affirming Medical Assistant to provide support services to the Gender-Affirming Medical Specialist. During periods of unavailability lasting longer than ten (10) days, the Department will ensure the responsibilities of the Gender-Affirming Medical Assistant are fulfilled by other Department staff or contract staff. For periods of unavailability lasting longer than thirty (30) days, the Department will fill the position with temporary or contract staff.
12. The Department will ensure adequate staffing of Patient Service Representatives within the Department Headquarters and/or facilities to ensure that patient referrals are generated according to this Agreement.

**C. Provision of Gender-Affirming Medical and Mental Health Treatments and Services**

13. All treatments and services that are covered as a gender-affirming treatment under the current HCA Transhealth Program will be accessible to transgender individuals in Department custody in a manner consistent with community standards or as otherwise outlined by Department policy. The Department will deliver gender-affirming medical and mental health care according to processes and timelines outlined in DOC Guidelines M1102, M1103, and internal documents “Masculinizing GAHT Community Standards” and “Feminizing GAHT Community Standards,” and, where not specified, according to average community timeframes. The Department will ensure that it maintains adequate processes to avoid any interruptions or unreasonable delays in the delivery of gender-affirming care. This includes timely reviews, approvals, and scheduling of necessary appointments.
14. The Department will retain the services of external providers as necessary to fulfill the requirements of this Agreement, including to perform gender-affirming treatments and services that are covered as a gender-affirming treatment under the HCA Transhealth Program.

- a. In the event there is no provider in the state of Washington to provide a specific service that has been deemed medically necessary for an individual, the Department will make reasonable and documented efforts to retain the services of other providers.
  - i. If, after an amount of time determined by the Parties, the Department has not retained the services of a provider to perform a specific service that has been deemed medically necessary for an individual, the Department will provide any durable medical equipment or accommodation that a Gender-Affirming Mental Health Community Consultant or Gender-Affirming Medical Specialist identifies as reasonably expected to significantly improve the symptoms of the individual's gender dysphoria. If the recommended durable medical equipment or accommodation is not provided due to individualized safety and security concerns, that decision will be documented in the individual's medical record.
15. A transgender individual placed in Restrictive Housing may request an HSR for additional state-issued razors, an electric shaver, and/or additional opportunities to shave for the treatment of gender dysphoria; the Gender-Affirming Medical Specialist will write the HSR within three (3) business days if the individual making the request is an established patient on the caseload of the Gender-Affirming Medical Specialist. A transgender individual placed in a reception facility or a violators unit may request an HSR for additional state-issued razors, an electric shaver, and/or additional opportunities to shave for the treatment of gender dysphoria; the Gender-Affirming Medical Specialist will write the HSR within three (3) business days if the individual making the request is an established patient on the caseload of the Gender-Affirming Medical Specialist or has reported a recent history of gender-affirming hormone therapy treatment. Individuals accessing additional state-issued razors, an electric shaver, and/or additional opportunities to shave for the treatment of gender

dysphoria under this provision will be issued their property and/or accommodation within no more than five (5) business days of their request.

16. The Gender-Affirming Medical Specialist will issue an HSR for an electric shaver to indigent transgender individuals with sensitive skin who cannot tolerate a safety razor when necessary as treatment for gender dysphoria. The electric shaver will be provided to the individual within three (3) days of the HSR being written unless an extension is mutually agreed upon by the Parties to address extenuating circumstances.
17. Gender-affirming property for which an HSR is required and not regularly stocked by the Department will be ordered within fourteen (14) days of when the HSR was written-and will be provided to the individual within three (3) days of receipt at the local facility.
18. The Department will facilitate access to medically necessary hair removal treatment services. Contractors and/or permanent staff retained by the Department to perform hair removal treatment will meet the qualification requirements described in Health Services Guidelines M1103. Initiation of hair removal treatment services will be in accordance with average community timeframes. The spacing and length of appointments for individuals will be according to recommendations of the hair removal professional per the individual's treatment plan and in accordance with community care standards.
19. The Department will ensure that transgender individuals placed in Restrictive Housing retain uninterrupted access to gender-affirming medical and mental health care.
20. Gender-Affirming Mental Health Specialists will provide mental health services for transgender individuals according to DOC Guidelines M1102.001. Every transgender individual on the mental health caseload of a Gender-Affirming Mental Health Specialist will receive an individualized treatment plan specifying the frequency and duration of appointments. Such treatment plans will not limit the frequency or duration of visits

based on provider capacity, and the frequency and duration of visits prescribed will be consistent with access to behavioral health services for transgender individuals enrolled in an Apple Health plan in the community.

21. The Department will facilitate access to general patient education that is accessible and relevant to incarcerated transgender individuals regarding gender-affirming medical care. Transgender individuals will be permitted to possess personal resources related to medical and social transition, biographies and memoirs, and other transgender-specific topics. Such resources may include photographs or drawings of medical information. The Department may restrict an individual's ability to possess such materials on a case-by-case basis in the event of specific and documented security or clinical concerns. The Department will ensure that individuals are provided a copy of and permitted to maintain possession of pre-operative and post-operative instructions when an individual has been scheduled for surgery.
22. The Department will ensure that transportation for transgender people receiving care in the community will follow the transportation plan outlined in the presurgical Multidisciplinary Team (MDT) notes. The Operation Capacity and Transportations Administrator or designee will attend the presurgical MDT meeting to assist with outlining the post-surgical transportation plan. The transportation plan will not expose the individual to unnecessary risks of post-operative complications or other injuries and will facilitate access to toileting as medically appropriate.

**D. Property**

23. The Department will provide state-issued gender-affirming clothing to transgender people upon request. State-issued gender-affirming clothing means state-issued clothing that corresponds to a transgender person's gender identity and includes underwear (women's briefs and gaffs, men's boxers), sports bras, fitted support bras, chest binders, pajamas, and shoes. In order to provide a proper fit, the Department may provide support bras and/or sports bras to transgender people that are a different brand

or model than those regularly stocked in Department facilities that are designated for women. Each facility shall designate an area that ensures privacy for changing and fitting, and designate an employee available to measure individuals for proper fit upon request. Transgender individuals will be permitted to possess and wear both women's and men's clothing, including undergarments, up to the total amount of clothing items allowable under DOC Policy.

24. The Department will stock support bras, sports bras, chest binders, women's briefs, gaffs, and men's boxers for transgender people at Periodic Automatic Replenishment (PAR) levels to be mutually agreed upon by the Department and DRW. The Department will not change the type of support bras, sports bras, chest binders, women's briefs, gaffs, or men's boxers it provides as state-issued clothing to transgender people without mutual agreement between the Department and DRW.
25. The Department will provide transgender people bras and chest binders that fit to size. Transgender individuals in the first two (2) years of gender-affirming hormone therapy or within two (2) years of top surgery will have bras, including sports bras and support bras, and chest binders replaced on an as-needed basis due to changes in breast size, weight change, pain or discomfort, standard wear, or other reasons. After two (2) years of hormone replacement therapy or top surgery, bras and chest binders will be replaced according to the Department's rules for women's facilities.
26. When a transgender individual in a receiving or violators unit requests an initial issuance of gender-affirming state-issued clothing items, the Department will provide the requested items within seventy-two (72) hours of request. In all other settings, requests for gender-affirming state-issued clothing items will be provided according to the standard timelines for routine or emergency clothing requests based on the facility where the individual resides. If the facility where the individual resides does not have timelines for routine or emergency clothing requests in policy, the timelines will be mutually agreed upon by the Department and DRW and then implemented by the Department.

27. The Department will develop and publish facility-specific operational memoranda, procedures and/or forms to ensure transgender people have consistent access to gender-affirming clothing and HSR-related property across facilities and custody levels.
28. Major prison facilities will stock HSR-related electric shavers, breast forms, and packers in accordance with PAR levels to be mutually agreed upon by the Department and DRW. The Department will not change the type of electric shavers, breast forms, or packers provided to transgender individuals without mutual agreement between the Department and DRW.
29. Transgender individuals will not be deprived of state-issued gender-affirming clothing, hair removal tools, or any item for which an HSR has been issued, unless denied according to individualized reasons and documented per Conditions of Confinement Modifications or a Security Enhancement Plan per DOC Policy, or as mutually agreed upon by the Parties. In Restrictive Housing settings, transgender individuals may be denied access to gender-affirming pajamas and shoes if such items are categorically denied to non-transgender individuals.

**E. OMNI**

30. The Department shall implement a plan to change the Offender Management Network Information (OMNI) system as follows:
  - a. Create a “Gender Identity” field, with available selections “Female,” “Male,” or “Non-Binary.” The “Gender Identity” field and the selection will be visible to all staff. The Department will implement a process for incarcerated people to request that the Department change their “Gender Identity” selection in OMNI. No staff will change an individual’s “Gender Identity” selection from its default selection or from one selection to another without the written request of the individual.
  - b. The Department will not use a “Gender,” “Sex Assigned at Birth,” “Sex at Birth,” “Sex,” “Biological Sex,” or any

other similar field in OMNI unless any such field is located in the Health Services section in OMNI and only visible to Health Services staff and select staff with a need to know.

- c. If the Department proposes to create or use additional fields in OMNI located outside of the Health Services section that relate, directly or indirectly, to an individual's gender identity, sex, or sex assigned at birth, the Department will not implement such field unless the Parties mutually agree in writing on the title and labeling of that field prior to implementation.

## **F. Privacy and Searches**

31. Consistent with DOC policy, the Department will not share the transgender status, gender history, genital anatomy, or sexual orientation of any transgender person with community housing and employment providers without the individual's specific written consent.
32. Transgender people will not be housed in a cell or dormitory with more than one cellmate unless the Department and the individual agree to such a placement.
33. Transgender people will be able to shower with privacy and, upon request, separately. Privacy for showering means the person's breasts, buttocks, and genitalia are not visible to either incarcerated individuals or Department staff from any angle, except in exigent circumstances.
34. Searches of transgender individuals will be conducted by an officer of the gender requested on the individual's DOC Form 02-420 and in such circumstances will not be considered a cross-gender search. Strip searches will not be conducted for the purpose of examining an individual's genitals. If a Superintendent, Community Corrections Supervisor, or Duty Officer approves a cross-gender search per DOC Policy 420.310, the cross-gender search will be documented according to DOC Policy 420.310. The Department's inability to make available women correctional officers who are trained to perform strip or pat searches of

transgender people is not an exigent circumstance justifying a cross-gender search under DOC Policy 420.310.

- a. If the Department denies an individual's requested search preferences because the Department has reason to believe the individual is asserting a transgender identity for an improper purpose, any pat or strip searches that are not conducted in accordance with the individual's stated preference on their most recently submitted DOC Form 02-420 will be documented as a cross-gender search according to DOC Policy 420.310 until the Department has properly completed an assessment and review process that has been agreed upon between the Department and DRW.
35. The Department will train all correctional officers, regardless of gender, on the strip and pat searching of transgender people as part of the CORE curriculum and annual in-service training. The training will include appropriate search practices for people with gender-affirming clothing and property items covered in this Agreement.
  36. The Department will adjust the search requirements and/or utilize available body scanners as recommended by the Gender-Affirming Medical Specialist as needed in order to minimize the risk of medical complications from pat and/or strip searches in the post-operative period.
  37. The Department will staff any facility housing transgender people with a sufficient number of women correctional officers trained on the strip and pat-down searching of people to meet the requirements of this Agreement.
  38. Transgender individuals will recover from gender-affirming surgery in the least-restrictive setting that meets medical needs where they can receive appropriate care according to an individual's post-operative care plan as determined by the individual's surgeon. Individuals who require the use of dilation tools will not lose access to privileges, including programs and employment, due to their use of dilation tools.
    - a. Each individual with vaginal dilation needs will receive a

documented, individualized dilation privacy plan. The Department will ensure all individuals with vaginal dilation needs will have access to dilation tools and privacy to complete their dilation routines at the frequency and duration as recommended by the individual's surgeon or Gender-Affirming Medical Specialist. For purposes of this provision, privacy means a space in which the individual cannot be observed, in whole or in part, by custodial staff or other incarcerated individuals except in exigent circumstances or as agreed to in the individual's dilation privacy plan.

39. The Department will ensure that transgender individuals who are transported to the community to receive medical care or services are not subjected to improper cross-gender viewing or cross-gender searches by Department staff.

**G. Agreement Timeframes**

40. The Department will deliver gender-affirming services, treatments, and property according to timeframes specified in this Agreement, DOC Guidelines M1102 and M1103, and, where not specified, according to average community timeframes.

**H. Workplan Implementation, Compliance Assessment, and Quality Assurance Data Collection**

41. Within three (3) months of the Effective Date, the Department and DRW will mutually agree upon "Workplans." The Workplans will not modify or add substantive terms to this agreement but will instead set forth the action steps the Department will undertake to move towards Material Compliance with each substantive term. The Parties will also agree to standardized "Compliance Assessments," to be used in assessing Material Compliance. The Compliance Assessments will be used by both Parties to document their determination of the Department's progress towards compliance by identifying whether the Department is "In-Progress," in "Material Compliance," or "Sustaining" for each substantive term of the Agreement.
42. The obligations of the Parties to produce and review quality

assurance data pursuant to this Agreement will be tolled until such time as the Parties have reached mutual agreement on the Workplans.

43. Upon the Parties' mutual agreement to the Workplan, the Parties will certify to the Court that such agreement has been reached on the deadlines for submission of Workplans, Compliance Assessments, and quality assurance data, the dates defining each reporting period, and the dates associated with each step of the performance review processes. The thirty (30) month Monitoring Term will commence upon this certification to the Court.
44. The Department shall provide to DRW updated Workplans, Compliance Assessments and accompanying quality assurance data according to the schedule agreed upon by the Parties, following approximately four (4) month reporting periods. The updated Workplans and Compliance Assessments shall identify whether the Department completed the required action steps and indicate whether the Department believes Material Compliance has been achieved with respect to any substantive provision of the Agreement.
45. The Department will produce the following quality assurance data to accompany the updated Workplans and Compliance Assessments for each four (4) month reporting period through the duration of the Monitoring Term:
  - a. A spreadsheet containing the following information about all transgender individuals in the custody of the Department during the preceding reporting period:
    - i. Name;
    - ii. DOC number;
    - iii. The unit and facility where the individual resides; and
    - iv. Date of intake.
  - b. A spreadsheet identifying all transgender individuals who were placed in Restrictive Housing for any period of time during the preceding reporting period, including each individual's name and DOC number.

- c. A spreadsheet containing information about all resolution requests filed by all transgender individuals in custody of the Department during the preceding reporting period. The spreadsheet must include the name and DOC number of the individual who filed each resolution request, a description of the resolution request, and the status of the resolution request. Resolution requests that were determined to be “Not Acceptable,” and/or those determined to be “Resolved Informally” must be included.
- d. A list of all current Gender-Affirming Mental Health Specialists.
- e. The attendance rosters of monthly training and consultation groups for Gender-Affirming Mental Health Specialists facilitated by a Gender-Affirming Mental Health Community Consultant within the preceding reporting period and a written explanation of any absences.
- f. The names and DOC numbers of all transgender individuals assigned to each Gender-Affirming Mental Health Specialist’s caseload as of the end of the reporting period.
- g. All behavioral health assessments written by the Gender Affirming Mental Health Community Consultant from the preceding reporting period.
- h. All Health Services kites sent between transgender individuals and the Gender-Affirming Medical Specialist, the Gender-Affirming Medical Assistant, the Gender Affirming Program Administrator, or other Department staff designated as part of the Gender-Affirming Care Team from the preceding reporting period.
- i. All Gender-Affirming Care Review Committee (GA-CRC) decision records from the preceding reporting period.
- j. A spreadsheet containing the following information:
  - i. The names and DOC numbers of all transgender

individuals approved for a gender-affirming surgery and the type of surgery;

- ii. For each surgery for which an individual has been approved: (a) whether the individual has been placed on a waitlist pending surgery, and, if so, the date on which the Department requested that the individual be added to the surgeon's waitlist; (b) whether the individual has been scheduled for surgery, and, if so, the anticipated surgery date; and (c) whether the surgery has been completed, and, if so, the date the surgery was completed.
  - k. The names and DOC numbers of all individuals approved for permanent hair removal.
  - l. A list of all currently contracted surgeons or other external providers and the type of services they provide.
  - m. For each permanent hair removal provider who provided services within Department facilities during the preceding reporting period, a list of individuals who were scheduled to receive services with that provider and the dates on which the services were scheduled.
  - n. If any permanent hair removal provider provided services outside Department facilities during the preceding reporting period, a list of the individuals who received such services and the dates on which the services were provided
46. Following each four (4) month submission of quality assurance data and updated Workplans and Compliance Assessments, the Parties will conduct the performance review process as follows:
- a. Identification of Records for Review: Within fourteen (14) days of receiving the Department's quality assurance data, updated Workplans and Compliance Assessments, DRW will provide the Department with the names and DOC numbers of individuals whose records DRW will use to conduct performance reviews.

- b. Production of Records: within fourteen (14) days of DRW's request, the Department will produce all requested records in its possession related to the individuals identified by DRW for purposes of the performance review. Such production will include protected or otherwise confidential records such as medical or mental health records pursuant to the protective order entered in this case, but excluding privileged attorney-client communications, which shall be noted in a privilege log.
  - c. Meet and Confer: Within fourteen days (14) of the Department's production of the requested records, the Parties will meet and confer. During the conference, the Parties will review the Department's updated Workplans and Compliance Assessments and determine whether there is mutual agreement on whether Material Compliance has been achieved for any of the substantive terms of the Agreement.
  - d. Completion of Workplan Updates and Compliance Assessments: Within fourteen (14) days following the meet and confer, the Parties will each submit updated Compliance Assessments. In the updated Compliance Assessments, each party will set forth its respective compliance determination and any supporting narrative explanation for each substantive provision. The Parties are not required to provide a narrative explanation for any substantive provision in which they agree the Department is in Material Compliance.
47. When both Parties determine that the Department has completed the required action steps set forth in the applicable Workplan, and the quality assurance data and performance reviews demonstrate no more than episodic or isolated instances of non-compliance, the applicable substantive provision shall be deemed to be in Material Compliance. If the Department maintains Material Compliance with respect to the same substantive provision for two (2) consecutive reporting periods, that substantive provision shall be deemed to be in Sustaining status. Sustaining status means that the Department is required only to maintain the progress and practices

implemented during the preceding reporting period in order to continue to achieve Material Compliance, without data reporting requirements related solely to that specific substantive provision. The Department shall be deemed to have achieved Substantial Compliance when each substantive provision has attained Sustaining status.

48. Nothing in the aforementioned process will limit DRW's authority to perform its monitoring responsibilities under this Agreement. DRW may request records, conduct facility visits, and otherwise perform monitoring activities for the duration of the Agreement's monitoring period. If the Department has previously achieved Material Compliance with a substantive provision of this Agreement, DRW may reevaluate that determination based on information contained in the Department's quality assurance data, records produced for purposes of the performance review, or constituent reports.

#### **IV. MONITORING**

- A.** DRW as monitor of this Agreement shall have full and complete access to all areas of Department facilities that are used by or accessible to incarcerated individuals. DRW shall also have access to Department officials, agents, employees, and people in custody. DRW may speak with any incarcerated person privately and without the presence of the Department, their counsel, and their officers or employees. Agents and employees shall not be retaliated against for speaking with DRW.
- B.** The Department shall also provide, within 14 days of request, records in possession of the Department, including protected or otherwise confidential records such as medical or mental health records pursuant to the protective order entered in this case, but excluding privileged attorney-client communications, which shall be noted in a privilege log. The parties shall meet and confer to identify potential sources of records and the format of production of records. Records shall be available in native format upon DRW's request.
- C.** A Gender-Affirming Medical Community Consultant and Gender-Affirming Mental Health Community Consultant shall review records

and provide opinions about gender-affirming care for transgender individuals in Department custody at the request of DRW. The Department shall bear the cost of any such consultation.

- D. Subject to individualized security concerns, DRW may conduct in-person or video meetings with groups of transgender people in Department custody.

**V. ENFORCEMENT, TERMINATION, AND CONSTRUCTION**

- A. The Parties agree to request that the United States District Court for the Western District of Washington enter an order adopting the terms of this Agreement. If the Court declines to issue an order adopting the terms of the Agreement, then the Agreement shall terminate and become null and void and the Parties will revert to the terms of the October 17, 2023 Settlement Agreement. The Court will retain jurisdiction over this matter for the purposes of enforcing this Agreement. Violations of the terms of this Agreement may be brought to the Court for enforcement and such further relief the Court determines appropriate.
- B. The Court shall retain jurisdiction to enforce the terms of this Agreement from the Effective Date through the duration of the Monitoring Term. During the thirty (30) month Monitoring Term, the Department shall not seek termination of all or part of an order adopting this Agreement except as provided in this Agreement.
- C. With one (1) month remaining in the Monitoring Term, the Parties shall submit a Status Report to the Court. If both Parties agree at the time the Status Report is filed that the Department has achieved Substantial Compliance with the Agreement, this Agreement shall automatically terminate, the Court's jurisdiction shall end, and the Court shall dismiss the case with prejudice.
- D. If, at the time the Status Report is filed, the Parties agree the Department has not achieved Substantial Compliance, the Parties shall amend this Agreement to provide for continued monitoring only of those substantive provisions with which the Department has not achieved Material Compliance for at least two (2) consecutive reporting periods.

- E.** If the Parties are unable to reach agreement regarding the determination of Substantial Compliance at the time the Status Report is filed, the Parties will submit to the Court their respective Compliance Assessments, with any supplemental briefs or materials the Parties deems necessary. The Court will have the authority to make the final determination as to whether Substantial Compliance has been met and may order any additional briefings or evidence as necessary. If the Court determines that the Department achieved Substantial Compliance, the Court shall terminate the Agreement, the Court's jurisdiction shall end, and the Court shall dismiss the case with prejudice. If the Court determines that the Department has not achieved Substantial Compliance, the Parties shall amend this Agreement to provide for continued monitoring only of those substantive provisions with which the Department has not achieved Material Compliance for at least two (2) consecutive reporting periods, and the Court may impose any other relief as it determines appropriate.
- F.** Violations of the terms of this Agreement may be brought to the Court for an extension of the Court's jurisdiction, specific enforcement of any provision, and such further relief the Court determines appropriate. The Court may terminate the Agreement and dismiss the case before the conclusion of the Monitoring Term if the Court finds, based on a stipulation of the Parties or following fact-finding proceedings, that Defendants have substantially complied with the requirements of this Agreement for one (1) year.
- G.** The provisions of this Agreement are severable. If any court holds any provisions of this Agreement invalid, that invalidity shall not affect the other provisions of this Agreement.
- H.** By mutual agreement, the parties may change the terms of this Agreement, including the timetables for taking specific actions, provided that such mutual agreement is memorialized in writing, signed by the Parties, and approved by the Court. Any provision of this Agreement may be waived only by an instrument in writing executed by the waiving Party. Failure by any Party to enforce this Agreement or any provision thereof will not be construed as a waiver.

- I. This Agreement shall be governed by the laws of the State of Washington without regard to conflict of law principles. None of the Parties hereto shall be considered to be the drafter of this Agreement or to any provision thereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause the provision to be construed against the drafter thereof.
- J. Nothing in this Agreement shall limit the authority of DRW as the Protection and Advocacy system for the State of Washington.
- K. Principles of Interpretation. The following principles of interpretation apply to this Agreement:
  - 1. The headings herein are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement.
  - 2. Definitions apply to the singular and plural forms of each term defined.
  - 3. References to a person include references to an entity, and include successors and assigns.
  - 4. All representations, warranties, and covenants set forth herein shall be deemed continuing and shall survive the execution of this Agreement.
  - 5. This Agreement binds and inures to the benefit of the Parties and their successors.
  - 6. Each of the Parties agree, without further consideration, and as part of finalizing the Agreement hereunder, that they will in good faith promptly execute and deliver such other documents and take such other actions as may be necessary to consummate the subject matter and purpose of the Agreement.

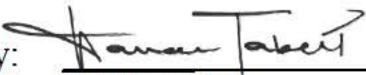
## **VI. FEES AND COSTS**

- A. As compensation for monitoring progress towards Substantial Compliance with this Agreement, Defendants shall pay Plaintiff the sum

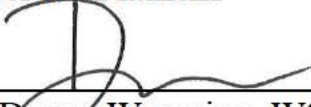
of \$300,000.00 (three hundred thousand dollars and zero cents) annually while this Agreement remains in effect. If the Parties mutually agree that the Department is in Material Compliance with all the substantive terms of Section III.B and III.C in this Agreement, Plaintiff agrees to reduce the annual monitoring fee to \$150,000.00 (one hundred and fifty thousand dollars and zero cents). This amount shall be due and payable annually on October 17 for monitoring occurring during the preceding year. For periods of time where the Agreement is not in effect for an entire year, the Parties agree that the total amount for that year will be prorated based on the number of months the Agreement was in effect. For periods of time where Plaintiffs have reduced the annual monitoring fee due to Defendants' Material Compliance with Sections III.B and III.C, the Parties agree that the amount for that year will be prorated based on the portion of the year during which each applicable fee rate was in effect. In exchange for this annual payment, Plaintiff's counsel waives any future claim for any and all attorneys' fees or costs they may incur related to monitoring this Agreement as long as this Agreement remains in effect.


- B.** Plaintiff shall be entitled to recover reasonable costs and attorneys' fees if it successfully moves the Court to enforce this Agreement, including to extend the term of the Agreement, to oppose early termination of the Agreement, or to otherwise enforce Substantial Compliance under Section V of this Agreement.

**For the Plaintiff**

By:  Date: 4/2/2026  
Wally Tablit,  
Executive Director, Disability Rights Washington

**Counsel for Plaintiff**


By:  Date: 4/2/2026  
Danny Waxwing, WSBA No. 54225  
Disability Rights Washington

By:  Date: 4/2/2026  
Rachael Seevers, WSBA No. 45846  
Disability Rights Washington

**For the Defendants**

By:  Date: 4/2/26  
Tim Lang  
Secretary, Washington State Dept. of Corrections

**Counsel for Defendants**

By:  Date: 4/2/26  
Katherine Faber, WSBA No. 49726  
Washington State Office of the Attorney General